

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

STATE FARM FIRE & CASUALTY
COMPANY, et al.,

Plaintiff,

Case No. C-1-01-891
(Novotny, M.J.)
(formerly assigned to Beckwith, J.)

vs.

CARRIER CORPORATION, et al.,

Defendants.

ORDER TO SHOW CAUSE

On April 7, 2003, defendant Carrier Corporation (“Carrier”) filed a Motion For Summary Judgment (doc. 20) dismissing all claims asserted against it by plaintiffs, State Farm Fire & Casualty Company and Keith and Debra Blevins (collectively, “plaintiffs”). By agreement of the parties, the deadline for responding to the motion for summary judgment was extended for a period of twenty-one (21) days following the dispositive motion deadline, or until October 21, 2003. Plaintiffs did not respond to the summary judgment motion. Instead, on October 8, 2003, plaintiffs filed a stipulation for dismissal of all claims against Carrier (doc. 36). On October 15, 2003, this Court entered an Order to strike the stipulation for failure to comply with Fed. R. Civ. P. 41 and inviting plaintiffs to file an appropriate motion under Fed. R. Civ. P. 21. (*See* doc. 38).

Plaintiffs have not yet filed a motion to dismiss Carrier as a party nor responded to Carrier’s motion for summary judgment, even though the time for filing a response has

expired.

Plaintiffs, therefore, are **ORDERED TO SHOW CAUSE**, in writing and within **FIFTEEN (15) DAYS** of the filing date of this Order, why the motion for summary judgment should not be construed as unopposed, and granted. *See Guarino v. Brookfield Township Trustees*, 980 F.2d 399, 404-05 (6th Cir. 1992) (holding that a district court properly relies upon the facts provided by a moving party when a motion for summary judgment goes unopposed). *But see Carver v. Bunch*, 946 F.2d 451, 454-55 (6th Cir. 1991) (a district court cannot grant summary judgment in favor of a movant simply because the adverse party has not responded; the court must examine the movant's motion for summary judgment to ensure that he has discharged the burden of demonstrating that there is no genuine issue of material fact).

IT IS SO ORDERED.

s/Susan M. Novotny
Susan M. Novotny
United States Magistrate Judge